

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed June 3, 2009. At the time of the Office Action, Claims 29-55 were pending in this Application. Claims 29-55 were rejected. Claims 1-28 have been cancelled without prejudice or disclaimer. Applicants respectfully request reconsideration and favorable action in this case.

Rejections under 35 U.S.C. § 102

Claims 29-36 and 39 were rejected by the Examiner under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 5,953,506 issued to Devenddra Kalra, et al. (“*Kalra*”). Applicants respectfully traverse and submit the cited art does not teach all of the elements of the claimed embodiment of the invention.

“A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 U.S.P.Q.2d 1051, 1053 (Fed. Cir. 1987). Furthermore, “the identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v. Suzuki Motor Co. Ltd.*, 868 F.2d 1226, 1236, 9 U.S.P.Q.2d 1913, 1920 (Fed. Cir. 1989). Applicants respectfully submit that the cited art as anticipated by the Examiner cannot anticipate the rejected Claims, because the cited art does not show all the elements of the present Claims.

The present independent claim includes the limitations:

- a) transmitting a transmission message containing one or more useful data objects to a switching component for forwarding to a first telecommunication device;*
- b) creating a plurality of variants of the one or more useful data objects in the switching component as a function of one or more parameters; and*
- c) informing the first telecommunication device of the availability of the plurality of variants of the one or more useful data objects for transmission to the first telecommunication device*

(Claim 29)(enumeration added)

The Examiner stated that limitation a) is disclosed in Fig. 1 and 2A and col. 4, lines 14-32. Applicant respectfully disagrees. *Kalra* discloses merely that a standard digital multimedia data is fed to a transcoder which then generates a plurality of streams. However, *Kalra* neither mentions nor suggests that transcoder 10 is a switching component. *Kalra* is particularly silent whether any data is transmitted to the transcoder 10 and/or whether transcoder 10 operates as a switching device. Thus, it is completely unclear from *Kalra* where the transcoder is located in a transmission path.

The Examiner stated that limitation c) is disclosed by *Kalra* in Fig. 2B, item 20 and col. 4, lines 25-5 as well as col. 2, line 8-14 and lines 30-45. Applicant respectfully disagrees. This limitation clearly states that the first telecommunication device is informed about the availability of a plurality of variants. *Kalra* neither discloses nor suggests to inform the telecommunication device about a plurality of variants. On the contrary, stream management module 20 makes a decision based on information obtained from the multimedia device 22 and selects a suitable format to be transferred to the multimedia device 22. To this end, *Kalra* states:

FIG. 2A illustrates that the adaptive digital streams 14 according to the present invention can be identified as having various components, specifically that of a base stream 14Ab, a first additive stream 14A1, a second additive stream 14A2, a third additive stream 14A3 to an nth additive stream 14An. Adaptive streams 16 and 18 are illustrated in FIG. 2A as streams of data containing information independent from the adaptive stream 14 previously mentioned, but which the present invention can use, as described hereinafter, to obtain various combinations of images and sounds having a desired resolution. The stream management module 20 illustrated in FIG. 2 according to the present invention will obtain a desired resolution profile from a multimedia device 22 and, based upon that desired resolution profile, select the appropriate base and additive streams from the available adaptive digital data streams associated therewith. Stream management module 20 then transmits these selected streams to the multimedia device, where they are decoded and then displayed for the user to experience.

(*Kalra*, col. 4, ll. 14-32) (emphasis added) At no time is any selection process performed by the multimedia device 22. On the contrary, all selection processes are performed by the stream management module 20. Hence, *Kalra* clearly cannot anticipate independent claim 29. Applicants respectfully submit that the dependent Claims are allowable

at least to the extent of the independent Claim to which they refer, respectively. Thus, Applicants respectfully request reconsideration and allowance of the dependent Claims. Applicants reserve the right to make further arguments regarding the Examiner's rejections under 35 U.S.C. §102 or §103(a), if necessary, and do not concede that the Examiner's proposed rejections and/or combinations are proper.

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CONCLUSION

Applicants have made an earnest effort to place this case in condition for allowance in light of the remarks set forth above. Applicants respectfully request reconsideration of the pending claims.

Applicants believe there are no fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-4871 of King & Spalding L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicants' attorney at 512.457.2030.

Respectfully submitted,
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